IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 1290 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE Y.B.BHATT
and
Hon'ble MR.JUSTICE M.H.KADRI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GSRTC

Versus

JAYABEN MULJIBHAI,W/O DECD. MULJIBHAI KANABHAI

Appearance:

1. First Appeal No. 1290 of 2001

MRS VASAVDATTA BHATT for Petitioner No. 1

MR GAURANG H BHATT for Respondents No. 1-4

..... for Respondent No. 5

CORAM : MR.JUSTICE Y.B.BHATT
and
MR.JUSTICE M.H.KADRI

Date of decision: 18/02/2002

ORAL JUDGEMENT

(Per : MR.JUSTICE Y.B.BHATT)

1. Heard learned counsel for the respective parties.

2. The appeal is admitted. Learned counsel, Mr. Gaurang Bhatt, appears for respondents Nos.1 to 4-original claimants, and waives service of notice in the appeal.

3. On a joint request of learned counsel for the appellant and learned counsel for respondents Nos.1 to 4-original claimants, this appeal is taken up for final hearing today.

4. This is an appeal under section 173 of the Motor Vehicles Act, 1988, at the instance of the Gujarat State Road Transport Corporation, being the owner of the offending vehicle, which caused the death of Muljibhai Kanabhai Sarvaiya, challenging the judgment and award of the Motor Accident Claims Tribunal, Gondal, in Motor Accident Claim Petition No.2 of 1993. The Tribunal has awarded to the respondents Nos.1 to 4-original claimants an aggregate compensation in the sum of Rs.2 lakhs on account of the death of Muljibhai Kanabhai Sarvaiya.

5. With the assistance of the learned counsel, we have carefully perused the impugned judgment and award and have perused such evidentiary material on record to which our attention has been drawn. We have heard learned counsel for the respective parties on their respective submissions.

6. As a result of this exercise, the learned counsel for respondents Nos.1 to 4-original claimants has frankly conceded that there is some scope for reducing the amount of compensation awarded by the Tribunal under the impugned judgment and award. On enquiry by the Court, he frankly conceded that upto Rs.30,000/- may be reduced. In the context of this concession, we enquired of learned counsel for the appellant as to whether any further reduction in the amount of compensation would be justified on the merits of the case.

6.1 The learned counsel for the appellant was unable to provide any such justification for any reduction below this figure.

7. In the light of the aforesaid circumstances, we hold and direct that the respondents Nos.1 to 4-original claimants would be entitled to an aggregate compensation in the sum of Rs.1,70,000/- (Rupees one lakh seventy

thousand only). The impugned award is modified only to the aforesaid extent, and the rest of the award stands confirmed. This appeal is, therefore, partly allowed to the aforesaid extent with no order as to costs. Decree accordingly.

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(swamy)